

ELECTRONICALLY FILED Pulaski County Circuit Court Terri Hollingsworth, Circuit/County Clerk 2020-Dec-01 13:49:02 60CV-20-6803 C06D09 : 5 Pages
--

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION**

DANE RICHARDSON

PLAINTIFF

VS.

NO. _____

**CRAIN FORD OF LITTLE ROCK, LLC AND
CAPITAL ONE AUTO FINANCE, INC.**

DEFENDANTS

COMPLAINT CLASS ACTION

Comes now the Plaintiff, Dane Richardson, by and through is attorneys, MAYS, BYRD & ASSOCIATES, P.A., by Richard L. Mays, Sr. and for his Complaint Class Action, states:

I.

NATURE OF CLAIM

1. This is an action to redress the failure of manufacturers to abide by their warranties in violation of the Magnuson Moss Warranty Act, 15 U.S.C. §2301 et seq.; to redress the private right of action for all deceptive trade practices in violation of the Arkansas Deceptive Trade Practices Act, A.C.A. §4-88-107; to redress failures of accurate an fair credit reporting in violation of the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq.; to rescind the sale of a 2015 GMC Sierra 1500, Serial No. 3GTU2VECXFG523378; to award Plaintiff and class members compensatory and punitive damages based upon Defendants' deliberate and willful violation of the above-stated federal and Arkansas statutes; and to award Plaintiff's costs, attorney's fees and any other relief to which he may or would be entitled.

II.

JURISDICTION AND VENUE

2. The transactions, occurrences, and events which are the subject of this action took place in Pulaski County, Arkansas. All of the Defendants reside in or otherwise have very substantial contacts with Pulaski County, Arkansas. This Court therefore has jurisdiction over this matter and venue is proper in this Court.

III.

PARTIES

3. Plaintiff Dane Richardson is an adult resident of Little Rock, Pulaski, Arkansas.

4. Defendant Crain Ford of Little Rock, LLC is a domestic LLC in good standing with its principal address located in Sherwood, Arkansas. This Defendant may be served with process through its registered agent, Crain Automotive Holdings, LLC, 5980 Wadley Road, Sherwood, Arkansas 72120.

5. Capital One Auto Finance, Inc. is a Delaware corporation with its headquarters located at 1680 Capital One Drive, McLean, Virginia and does business in Little Rock, Arkansas. This Defendant may be served with process through its registered agent, Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

IV.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action pursuant to Rules 23(a) and (b) of the Arkansas Rules of Civil Procedure on his own behalf and on behalf of all other persons similarly situated. The members of the class are all former and current customers of Crain Ford Little Rock and Capital One

Auto Finance that were affected by the entities' pattern and practice of ignoring standard financing rules regarding extending credit and employing deceptive and predatory lending practices to the detriment of the public.

7. On information and belief, the Defendant Crain Ford has a pattern and practice of undervaluing a trade-in vehicle and disregarding standard financing practices.

V.

FACTS

8. On December 9, 2019, Dane Richardson of Little Rock, Arkansas agreed to purchase a 2015 CGM Sierra 1500, Serial No. 3GTU2VECXFG523378.

9. This vehicle was manufactured and warranted by Fidelity Warranty Services and sold to Dane Richardson by Crain Ford of Little Rock.

10. Crain Ford of Little Rock sold a \$2,900 warranty to Mr. Richardson on a vehicle not operable in violation of the Magnuson Moss Warranty Act, 15 U.S.C. §2301 et seq.

11. The vehicle has been in the possession of the dealership due to a defect in the transmission and Mr. Richardson has been left without his vehicle he traded in, a 2006 BMW X3, valued by Defendant Crain Ford at \$1,000 and a combined value of \$23,031.00.

12. Many attempts at repair have been unsuccessful and the vehicle remains unsafe, defective, and unusable for a substantial period since the alleged purchase date of December 9, 2019.

13. Defendant Crain Ford knowingly made a false representation as to the standard of quality of the vehicle in violation of the Arkansas Deceptive Trade Practices Act, A.C.A. §4-88-107.

14. Defendants ignored standard financing rules regarding extending credit in violation of the Fair Credit Reporting Act. 15 U.S.C. §1681 et seq.

15. Plaintiff Richardson never took possession of the vehicle and notified the Defendants of cancellation numerous times physically, through his father and through his attorney by letter dated January 7, 2020, a copy of which is attached.

16. Defendants Crain Ford of Little Rock and Capital One Auto Finance electronically processed a loan in Plaintiff's name after being notified to cancel the transaction and without validating his income or employment.

17. Plaintiff, diagnosed with Biogenetic Alcoholism, has been confined to a medical and treatment facility since December 18, 2019, the date of his last contact with Crain Ford of Little Rock.

18. Plaintiff had lost his job at the time of the alleged purchase, was under the influence of alcohol, had only held a job for approximately three (3) months in 2019, the vehicle that he had allegedly purchased was not operative and Plaintiff had notified Defendants of his revocation of the transaction, all of which the Defendants knew at the time that they electronically processed the transaction.

19. The Bill of Sale was never signed by the Plaintiff.

20. Defendant Crain Ford of Little Rock gave Plaintiff a trade-in valued at \$1,000 on a 2006 BMW X3, which has a wholesale value of approximately \$3,750 and a retail value of approximately \$6,500.

21. Defendant Crain Ford of Little Rock acted wilfully, wantonly and recklessly in total disregard of the welfare of Plaintiff.

VI.

DEMAND FOR JURY TRIAL

22. Plaintiff demands a trial by jury of all issues herein plead.
23. Plaintiff reserves the right to amend or supplement this pleading and plead for any other just and proper relief.

WHEREFORE, Plaintiff requests cancellation of the contracts from Defendants and compensation and damages in excess of \$25,000.00 and punitive damages in excess of \$50,000.00.

Respectfully submitted,

/s/Richard L. Mays, Sr. (AR68036)
MAYS, BYRD & ASSOCIATES, P.A.
212 Center St., 7th Floor
Little Rock, AR 72201
(501) 372-6303
E-mail: rmays@maysbyrdlaw.com

ATTORNEY FOR PLAINTIFF



7019 0700 0000 3081 5780
212 CENTER ST. • 7TH FLOOR
LITTLE ROCK, AR 72201
MAYSBYRDLAW.COM



NEOPOST
FIRST-CLASS MAIL
\$012.50⁰
01/05/2021 ZIP 72201
042L14815109

U.S. POSTAGE

Capital One Auto Finance, Inc.
Registered Agent, Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19807

1980831674 0073



EXHIBIT B
(Consent to Removal Email)

Mathews, Ellen

From: Barton Hankins <bartonhankins@crainteam.net>
Sent: Tuesday, February 16, 2021 12:40 PM
To: Mathews, Ellen; Jamie Huffman Jones
Subject: RE: Richardson v. Crain Ford, Capital One Auto Finance -- Action Requested by 2/16/21

[EXTERNAL EMAIL]

Yes we consent . But we were not actually served to my knowledge.

Barton Hankins
Chief Operating Officer
Crain Automotive Holdings, LLC
Crain Media Group, LLC
5980 Wadley Rd.
Sherwood, AR 72120

(501) 542-5000 – Office

From: Mathews, Ellen <emathews@burr.com>
Sent: Tuesday, February 16, 2021 12:37 PM
To: Jamie Huffman Jones <JJones@fridayfirm.com>; Barton Hankins <bartonhankins@crainteam.net>
Subject: RE: Richardson v. Crain Ford, Capital One Auto Finance -- Action Requested by 2/16/21
Importance: High

Thanks Jamie.

Barton, does Crain Ford of Little Rock consent to removing this case from Pulaski County to the Eastern District of Arkansas?

We need to put the papers in the mail today if at all possible.

Thanks,
Ellen

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Jamie Huffman Jones <JJones@fridayfirm.com>
Date: 2/15/21 2:55 PM (GMT-06:00)
To: "bartonhankins@crainteam.net" <bartonhankins@crainteam.net>, "Mathews, Ellen" <emathews@burr.com>
Subject: RE: Richardson v. Crain Ford, Capital One Auto Finance -- Action Requested by 2/16/21

[EXTERNAL EMAIL]
